

United States District Court
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SYLVESTER MCCURRY

TDCJ No. 1080957

v.

DIRECTOR, TDCJ-CID

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CIVIL ACTION NO. 3:22-CV-2038-S-BN

ORDER

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. *See* ECF No. 6. No objections were filed. The Court has reviewed the Findings, Conclusions, and Recommendation for plain error. Finding none, the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

The Court therefore **TRANSFERS** Petitioner's unauthorized successive 28 U.S.C. § 2254 habeas application to the United States Court of Appeals for the Fifth Circuit for appropriate action. And, because the Court is transferring the application to the Fifth Circuit, a certificate of appealability (a COA) is not necessary. *See United States v. Fulton*, 780 F.3d 683, 688 (5th Cir. 2015) ("[A] transfer order under 28 U.S.C. § 1631 is not a final order within the meaning of § 2253(c)(1)(B), and the appeal of such an order does not require a COA."); *Guel-Rivas v. Stephens*, 599 F. App'x 175, 175 (5th Cir. 2015) (per curiam) (applying *Fulton*'s holding to transfer of a successive Section 2254 application).

SO ORDERED.

SIGNED October 13, 2022.



UNITED STATES DISTRICT JUDGE